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APR 25 2008

OFFICE OF PETITIONS

In re Patent No. 5,906,407
Issue Date: May 25, 1999
Application No. 09/122,874
Filed: July 27, 1998
Attorney Docket No. AGRI-009

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed September 27, 2007, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks items (2) and (3). The petition includes a \$750 "Petition-revive unintent. abandoned appl" fee. However the proper fees under 37 CFR 1.378(c) for the above referenced application is \$1,180 for the indicated seven and one-half year maintenance fee for small entity and the \$1,640 surcharge fee required under 37 CFR 1.20(i)(2) for a total of \$2,820. Therefore, the petition fee balance due is \$2,070. The petition did not include a general fee authorization that could be applied against the fee deficiency.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Further correspondence with respect to this matter should be addressed as follows:

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The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to Carl Friedman at (703) 571-6842.



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